

REMARKS

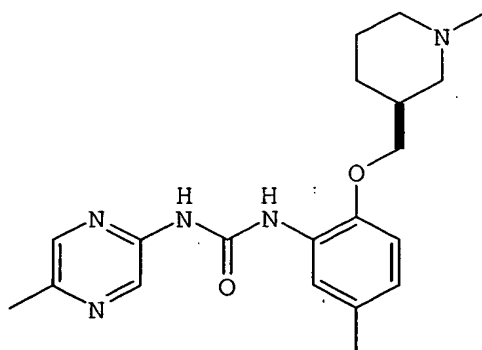
Claims 1-30 are pending in the application. New claim 31 has been added to the application. Therefore, claims 1-31 are at issue.

New claim 31 recites four specific compounds. This claim includes no new matter and is fully supported by the specification as discussed below.

In the Office Action, claims 1-30 were subjected to a restriction requirement. In response, applicants hereby elect the invention represented by the claims of examiner's Group I, namely, claims 1 through 30 (in part) inclusive, with traverse, for examination on the merits at this time.

Examiner's Group I includes claims 1-30 (in part) that are "drawn to compounds, composition, a method of use for claim 1 generic Formula: 'W-X1-C(=Y)-X2-Z, wherein W=6-membered monocyclic heterocycle with 1,4-diazine ring=Pyrazine; Y=O or S; Z=Aryl or phenyl."

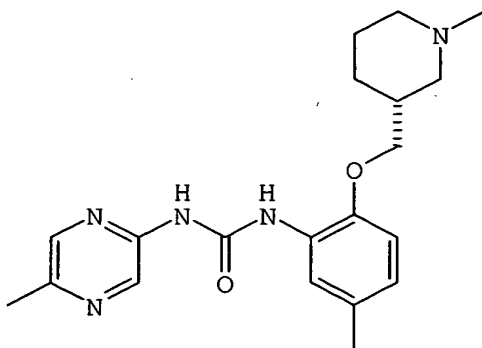
Applicants also were required to elect a single disclosed species for examination on the merits at this time. In response, applicants hereby elect, with traverse, compound 284 at page 146 of the specification, i.e., 1-[5-methyl-2-(3-(S)-1-methyl-piperidin-3-ylmethoxy)-phenyl]-3-(5-methyl-pyrazin-2-yl)-urea, having a formula



Applicants further submit that at least compounds 285, 287, and 289 at pages 146-148 of the application also should be examined at this time. Although the examiner has requested an election of a single compound from a single example, it should be noted that examples 284, 285, 287, and 289 are stereo- and/or positional-isomers of one another. Consequently, a search for one of these compounds would necessarily require a search for all four compounds.

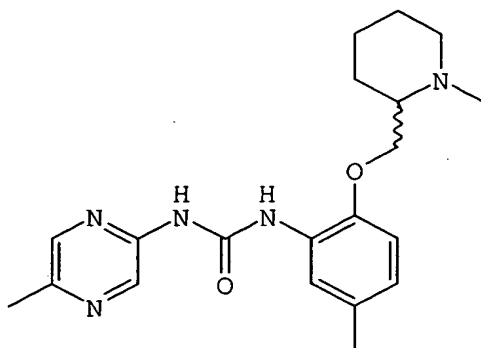
The identity of compounds 285, 287, and 289 is as follows:

Compound 285:



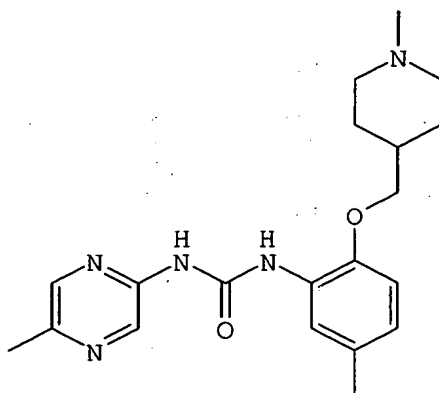
1-[5-Methyl-2-(3-(R)-1-methyl-piperidin-3-ylmethoxy)-phenyl]-3-(5-methyl-pyrazin-2-yl)-urea

Compound 287:



1-[5-Methyl-2-(1-methyl-piperidin-2-ylmethoxy)-phenyl]-
3-(5-methyl-pyrazin-2-yl)-urea

Compound 289:



1-[5-Methyl-2-(1-methyl-piperidin-4-ylmethoxy)-phenyl]-
3-(5-methyl-pyrazin-2-yl)-urea

Compounds 284, 285, 287, and 289 also are now specifically recited in new claim 31. The specification at pages 146-148 fully support new claim 31.

As previously stated, applicants make the above elections with traverse, and it is submitted that all claims 1 through 31, and all species, should be

examined at this time. The novelty of the invention is defined in the claims of both Group I and Group II, which are not two independent and distinct inventions because the statutory requirements of 35 U.S.C. §121, namely, independence and distinctness, are not present herein.

Although the claimed subject matter may be classified in different classes, the inventions are not independent because the compounds, compositions, and methods set forth in claims 1 through 31, are so closely related that a search for applicants' elected compounds would necessarily encompass a search for applicants' nonelected compounds.

In addition, even if the inventions are considered independent, there is no evidence that a search and examination directed to all claims would be a *serious burden* on the examiner, as is required by M.P.E.P. §803. ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." and "There must be a serious burden on the examiner if restriction is not required.")

In particular, it is submitted that a complete search directed to the subject matter of the compounds of examiner's Group I would require a search directed to the subject matter of the compounds of examiner's Group II, and vice versa.

Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office

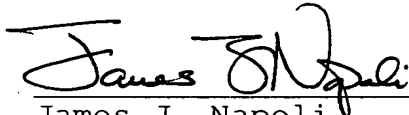
to prosecute portions of the claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office to prosecute the method and apparatus claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office and applicants to do so in two separate applications. Accordingly, it is submitted that all claims should be examined at this time.

Reconsideration and withdrawal of the restriction requirement are respectfully requested. An early action of the merits on all claims is solicited.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP

By



James J. Napoli
(Registration No. 32,361)
Attorneys for Applicants
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 474-6300

Chicago, Illinois
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